

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DOCKET NO: 05 CV 11718 RGS

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COLLETTE BRIGHTMAN,  
Plaintiff,

v.

J.C. PENNEY, INC.,  
Defendant.

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) **JOINT STATEMENT PURSUANT**  
) **TO LOCAL RULE 16.1**  
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Pursuant to Local Rule 16.1(D), the parties submit the following joint statement:

**A. OVERVIEW**

This case arises out of an alleged trip and fall accident at a J.C. Penney retail store on February 23, 2004, at the North Dartmouth Mall in Dartmouth, Massachusetts. Plaintiff claims that she tripped and fell over shelving that the defendant was in the process of setting up in a store department. Plaintiff has claimed injuries to her right knee, namely a Grade III tear of the anterior cruciate ligament (ACL), a torn medial meniscus and right knee requiring surgical repair. Defendant has filed an answer denying liability.

**B. AGENDA FOR RULE 16.1 CONFERENCE**

The parties suggest that the primary agenda for the initial scheduling conference will be to address the parties' proposed pre-trial schedule set forth below.

**C. SETTLEMENT**

Plaintiff will submit a settlement proposal in advance of the conference. Defendant will be prepared to respond to the plaintiff's settlement proposal at or before the Scheduling Conference.

**D. TRIAL BEFORE MAGISTRATE**

At this point, there is no agreement by both parties to try this matter by Magistrate Judge. The parties agree that they may change this position by mutual agreement at the scheduling conference.

**E. RULE 26(a)(1) DISCLOSURES**

The parties agree to serve their initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) and Local Rule 26.2(A) on or before November 13, 2005. This includes the plaintiff's disclosure obligations pursuant to Local Rule 35.1 regarding "Disclosure of Medical Information in Personal Injury Cases."

**F. PROPOSED PRE-TRIAL SCHEDULE AND DISCOVERY PLAN**

The parties propose that the following schedule govern the pre-trial conduct of this action:

A. PHASE 1: For developing information required for a realistic assessment of the case:

1. All fact discovery will be completed by June 30, 2006.
2. Pursuant to Local Rule 26.1(c), the parties will be limited to ten (10) depositions for each side, not including expert depositions or third-party record custodian depositions.
3. The parties agree to comply with the discovery event limitations set forth in Local Rule 26.1(C).

B. PHASE 2: For developing information required to prepare for trial, if necessary:

1. The plaintiff will provide her expert witness disclosure to the defendant in accordance with Rule 26(a)(2) no later than July 31, 2006.

2. The defendant will provide its expert witness disclosure to the plaintiff in accordance with Rule 26(a)(2) no later than September 15, 2006.

**G. PROPOSED MOTION FILING SCHEDULE**

A. The parties will file and serve motions for amendments to pleadings by February 28, 2006. In lieu of a motion, the parties hereby stipulate that all pleadings filed to date are hereby amended by substituting "J.C. Penney Corporation, Inc." for "J.C. Penney, Inc." to correct the inadvertent misnomer of the defendant.

B. All non-dispositive and non-expert discovery motions will be filed by July 31, 2006.

C. The parties will file and serve Rule 56 motions by August 31, 2006.

**H. CERTIFICATION**

The parties' certifications, as required by Local Rule 16.1(D)(3), have been filed and/or will be separately filed on or before the date of the Scheduling Conference.

The Defendant,  
J.C. Penney Company, Inc.,  
By its attorneys,

*/s/ Richard R. Eurich*

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The Plaintiff,  
Collette Brightman,  
By her attorneys,

*/s/ Scott D. Peterson*

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